



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Proposed Collection Revision, Comment Request: Adoption of Revised Registration Form 8-R and Cancellation of Form 3-R

AGENCY: Commodity Futures Trading Commission

ACTION: Notice

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or the “Commission”) is announcing an opportunity for public comment on the proposed revision to the collection of certain information by the Commission. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information and to allow 60 days for public comment. The Commission revised its Form 8-R, the application form that individuals use to register with the Commission or to be listed as a principal. This notice solicits comments on the PRA implications of the revisions to Form 8-R, including comments that address the burdens associated with the modified information collection requirements of the revised Form 8-R. Additionally, this notice also solicits comments on the PRA implications of reassigning the burdens associated with the information collections requirements of Commission Form 3-R, which is no longer used, to Commission Forms 7-R and 8-R.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “OMB control numbers 3038-0023 and 3038-0072; Adoption of Revised Registration Form 8-R and Cancellation of Form 3-R,” by any of the following methods:

- The Commission’s web site, via its Comments Online process at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the web site.

- Mail: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

- Hand Delivery/Courier: Same as Mail above.

- Federal eRulemaking Portal: <http://www.regulations.gov/>. Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Regulation 145.9.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from

¹ 17 CFR 145.9.

<http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Laura Gardy, Associate Director, (202) 418-7645, lgardy@cftc.gov; or August A. Imholtz III, Special Counsel, (202) 418-5140, aimholtz@cftc.gov, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 C.F.R. 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed revision to the collections of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB number.

Titles: Registration Under the Commodity Exchange Act (OMB control number 3038-0023); Registration of Swap Dealers and Major Swap Participants (OMB control number 3038-0072). This is a request for extension and revision of these currently approved information collections.

Abstract: The Commission recently revised its Form 8-R, the application form that individuals must use to register with the Commission as an associated person, floor broker, or floor trader, or to be listed as a principal. The collections of information related to Form 8-R were previously approved by OMB in accordance with the PRA and assigned OMB control numbers 3038-0023 and 3038-0072. Additionally, the Commission no longer requires individuals and entities to use Commission Form 3-R to update their registration information, which now can be updated directly on Forms 7-R or 8-R. The Commission therefore is reassigning to Forms 7-R and 8-R the information collection burdens previously associated with Commission Form 3-R. The collection of information related to Form 3-R was previously approved by OMB in accordance with the PRA and assigned OMB control number 3038-0023.

1. Form 8-R Revision

The revised Form 8-R contains several changes that increase the existing information collection burden, currently 0.8 hours, associated with Form 8-R. The Commission estimates that the changes, which are discussed below, when considered together in aggregate add a total of 0.1 burden hours to the information collection burdens associated with Form 8-R.

First, in the “Fingerprint Card Information” section, revised Form 8-R adds two new questions. One new question addresses new requirements and exemptions thereto

contained in Commission Regulation 3.21(e) applicable to non-U.S. persons. The other new question addresses the fingerprinting requirement exception for certain outside directors of registered firms. Second, in the section titled “Disciplinary Information – Regulatory Disclosures,” a new question was added to existing Question E. Among other things, Question E inquires whether the applicant (or an entity of which the applicant was a principal) violated, or aided and abetted the violation of, any investment-related statutes or regulations, a potential statutory basis for refusing or conditioning registration. The new question directs the applicant to disclose whether he or she has ever been found to have “failed to supervise another person’s activities under any investment-related statute or regulation.” Third, in the section titled “Disciplinary Information – Financial Disclosures,” the Commission revised Question J. Prior to the revision, Question J asked whether the applicant has “currently failed to comply with any order to pay any futures-related civil monetary penalties, restitution amounts, disgorgement amounts, reparation amounts or arbitration awards.” As revised, Question J now inquires whether the applicant “failed to pay any arbitration awards involving CFTC-regulated products, CFTC civil monetary penalties, CFTC restitution amounts, CFTC disgorgement amounts, or CFTC reparation amounts.”

The revised Form 8-R also contains several changes that do not alter the information collection burdens associated with Form 8-R. First, the revised Form 8-R combines into a single form two separate, existing versions of the Form 8-R, the Form 8-R “Individual Application” and the Form 8-R “Floor Trader Order Enterer Individual Application,” both of which were previously approved by OMB. In the section titled “Sponsor Information and Registration Categories,” the revised Form 8-R adds “floor

trader order enterer” as a new category of persons that can be associated with a sponsor. Also in connection with this change, the revised Form 8-R includes two newly defined terms: “entity floor trader” and “floor trader order enterer.” Second, in the section titled “Principal Information,” the prior version of Form 8-R contained a blank space in which an applicant entered a title. In the revised Form 8-R, the space is replaced with a list of available titles for applicants to choose from. Third, NFA is simplifying the process by which it requests supplemental information and documentation regarding the applicant’s criminal, regulatory or financial disclosures. The prior version of Form 8-R requested that applicants provide a written explanation of the facts and circumstances regarding any such disclosures. Applicants were also separately requested to provide NFA with copies of pertinent documents associated with each disclosure. To consolidate and modernize this process, the revised Form 8-R allows applicants to complete a separate “Disclosure Matter Page” for each matter, instance or event requiring disclosure and to simultaneously upload all pertinent documents associated with each disclosure. The Disclosure Matter Page provides applicants with an efficient and effective method of supplying the supplemental information and documentation that NFA requests in the normal course whenever an applicant responds affirmatively to any of the questions regarding criminal, regulatory or financial disclosures.

Lastly, the revised Form 8-R contains numerous changes to the language, formatting and organization of Form 8-R, all of which – individually and collectively – do not alter the information collection burdens associated with Form 8-R. The only changes to Form 8-R that affect the information collection burdens associated with the form are those discussed above.

2. *Cancellation of Form 3-R*

Commission Regulations 3.11 and 3.31 historically required entities and individuals to use Commission Form 3-R to update or correct certain types of information that originally was supplied on Commission Forms 7-R or 8-R, the registration forms for entities and individuals respectively. Regulations 3.11 and 3.31 were amended in 2012 to reflect a new practice whereby Forms 7-R and 8-R could be directly updated online, and the requirement to use Form 3-R for updates, or for any other purpose, was deleted from the Commission rules. At that time, however, the Commission did not reassign to Forms 7-R and 8-R the information collection burden associated with the Form 3-R. The Commission is doing so now.

The information collection burden associated with Form 3-R is 0.1 hours. In reassigning that burden to Forms 7-R and 8-R, the Commission believes that it is appropriate to adopt a conservative approach and assign an additional 0.1 hours each to the Form 7-R and 8-R. Accordingly, by virtue of cancelling Form 3-R, and reassigning to Forms 7-R and 8-R the information collection burdens associated with Form 3-R, the information collections burdens for Forms 7-R and 8-R each will increase by 0.1 hours. The reassignment of the information collection burden from Form 3-R to Forms 7-R and 8-R reallocates the information collection burdens within OMB control number 3038-0023, and does not increase or decrease the total information collection burden under that control number.

3. *Invitation to Comment*

With respect to the information collections discussed above, the CFTC invites comments on:

- Whether the proposed revision to the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed revision to the collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the further use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Burden Statement: As explained above, the Commission believes that the revisions to Form 8-R increase the information collection burdens associated with that Form under OMB control numbers 3038-0023 and 3038-0072. Additionally, the Commission believes that reassigning to Forms 7-R and 8-R the information collection burdens formerly associated with Commission Form 3-R reallocates the information collection burdens within OMB control number 3038-0023, and therefore does not increase or decrease the total information collection burden under that control number.

The Commission estimates the burden of this collection of information under OMB control number 3038-0023 to be:

Respondents/Affected Entities: (1) users of Form 7-R, specifically futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity

trading advisors, commodity pool operators, floor trader firms, and leverage transaction merchants; and (2) users of Form 8-R, specifically (i) associated persons of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, and leverage transaction merchants; floor brokers; (ii) principals of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms, or leverage transaction merchants; (iii) floor brokers; (iv) floor traders; and (v) floor trader order enterers.

Estimated number of respondents: 78,109.

Estimated total annual burden on respondents: 7,210 hours.

Frequency of collection: Periodically.

There are no capital costs or operating and maintenance costs associated with this collection.

The Commission estimates the burden of this collection of information under OMB control number 3038-0072 to be:

Respondents/Affected Entities: (1) users of Form 7-R, specifically swap dealers and major swap participants; and (2) users of Form 8-R, specifically principals of swap dealers and of major swap participants.

Estimated number of respondents: 770.

Estimated total annual burden on respondents: 648 hours.

Frequency of collection: Periodically.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 et seq.)

Dated: April 24, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017-08559 Filed: 4/27/2017 8:45 am; Publication Date: 4/28/2017]